

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

RHONDA P. BROWN,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

CASE NO. C12-5233-JCC

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING CASE

This matter comes before the Court on the Report and Recommendation of the Honorable Brian A. Tsuchida, United States Magistrate Judge (Dkt. No. 25). Because Plaintiff's objections to the Report and Recommendation were not timely filed, they are not entitled to *de novo* review, and the Court may adopt the Report and Recommendation if it is satisfied there is no clear error on the face of the record. Fed. R. Civ. P. 72(b)(2)–(3) and Advisory Committee's Notes; 28 U.S.C. § 636(b)(1) ("Within fourteen days after being served with a copy, any party may serve and file written objections to [the] proposed findings and recommendations"); *see, e.g., Gonzales v. Harris*, 514 F. Supp. 991, 994 (E.D. Cal. 1981) (objecting party not entitled to *de novo* review of magistrate judge's recommendations where objections were filed one day late); *accord Escobar v. Reid*, 668 F. Supp. 2d 1260, 1313 (D. Colo. 2009) ("A party's failure to serve and file specific, written objections waives *de novo* review of the Report and Recommendation by the

district judge”) (citing Fed. R. Civ. P. 72(b)); *cf. Miranda v. Anchondo*, 684 F.3d 844, 848 (9th Cir. 2012) (implying that where, as here, objections are untimely, district court may, but is not required to, “address[] [the] objections on their merits”).

Even if the Court were to consider Plaintiff’s objections, it would reject them for the reasons raised in the Commissioner’s response—in particular, because, “[r]ather than directing this Court to specific errors in the R&R, Plaintiff largely repeats the same arguments the magistrate judge considered and rejected.” (Dkt. No. 28 at 2.) Therefore, the Court, having carefully considered Plaintiff’s complaint, the parties’ briefs, the Report and Recommendation, and the balance of the record, and finding no clear error in the Report and Recommendation, does hereby find and ORDER:

- (1) The Report and Recommendation (Dkt. No. 25) is ADOPTED;
- (2) The final decision of the Commissioner is AFFIRMED;
- (3) This case is DISMISSED with prejudice; and
- (4) The Clerk of the Court is directed to send copies of this order to the parties and to Judge Tsuchida.

DATED this 3rd day of December 2012.



John C. Coughenour
UNITED STATES DISTRICT JUDGE